

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1312

Introduced by Assembly Member Smyth

February 18, 2011

An act to amend Section ~~8203 of the Education Code~~ 1596.792 of the Health and Safety Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1312, as amended, Smyth. ~~Child-care. care: exemption from licensure: public recreation programs.~~

Existing law, the California Child Day Care Facilities Act, prescribes licensure requirements for the operation of child day care facilities, day care centers, and family day care homes. The act exempts specified facilities and arrangements, including public recreation programs that meet specified criteria, from its provisions.

Under existing law, an exempt public recreation program must operate for under 16 hours per week, except that specified programs are limited to 12 hours per week or less, and an exempt program must operate for a total of 12 weeks or less during a 12-month period.

This bill would authorize any exempt public recreation program to operate for under 20 hours per week and for a total of 14 weeks or less during a 12-month period.

~~Existing law requires the Superintendent of Public Instruction to develop standards for the implementation of quality child care and development services, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1596.792 of the Health and Safety Code,
2 as amended by Section 4 of Chapter 519 of the Statutes of 2010,
3 is amended to read:
4 1596.792. This chapter, Chapter 3.5 (commencing with Section
5 1596.90), and Chapter 3.6 (commencing with Section 1597.30)
6 do not apply to any of the following:
7 (a) Any health facility, as defined by Section 1250.
8 (b) Any clinic, as defined by Section 1202.
9 (c) Any community care facility, as defined by Section 1502.
10 (d) Any family day care home providing care for the children
11 of only one family in addition to the operator's own children.
12 (e) Any cooperative arrangement between parents for the care
13 of their children when no payment is involved and the arrangement
14 meets all of the following conditions:
15 (1) In a cooperative arrangement, parents shall combine their
16 efforts so that each parent, or set of parents, rotates as the
17 responsible caregiver with respect to all the children in the
18 cooperative.
19 (2) Any person caring for children shall be a parent, legal
20 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of
21 at least one of the children in the cooperative.
22 (3) There can be no payment of money or receipt of in-kind
23 income in exchange for the provision of care. This does not prohibit
24 in-kind contributions of snacks, games, toys, blankets for napping,
25 pillows, and other materials parents deem appropriate for their
26 children. It is not the intent of this paragraph to prohibit payment
27 for outside activities, the amount of which may not exceed the
28 actual cost of the activity.
29 (4) No more than 12 children are receiving care in the same
30 place at the same time.
31 (f) Any arrangement for the receiving and care of children by
32 a relative.
33 (g) Any public recreation program. "Public recreation program"
34 means a program operated by the state, city, county, special district,

1 school district, community college district, chartered city, or
2 chartered city and county that meets either of the following criteria:

3 (1) The program is operated only during hours other than normal
4 school hours for kindergarten and grades 1 to 12, inclusive, in the
5 public school district where the program is located, or operated
6 only during periods when students in kindergarten and grades 1
7 to 12, inclusive, are normally not in session in the public school
8 district where the program is located, for either of the following
9 periods:

10 (A) For under ~~16~~ 20 hours per week.

11 (B) For a total of ~~12~~ 14 weeks or less during a 12-month period.
12 This total applies to any ~~12~~ 14 weeks within any 12-month period,
13 without regard to whether the weeks are consecutive.

14 In determining “normal school hours” or periods when students
15 are “normally not in session,” the State Department of Social
16 Services shall, when appropriate, consider the normal school hours
17 or periods when students are normally not in session for students
18 attending a year-round school.

19 (2) The program is provided to children who are over the age
20 of four years and nine months and not yet enrolled in school and
21 the program is operated during either of the following periods:

22 (A) For under ~~16~~ 20 hours per week.

23 (B) For a total of ~~12~~ 14 weeks or less during a 12-month period.
24 This total applies to any ~~12~~ 14 weeks within any 12-month period,
25 without regard to whether the weeks are consecutive.

26 (3) The program is provided to children under the age of four
27 years and nine months with sessions that run ~~12~~ 20 hours per week
28 or less and are ~~12~~ 14 weeks or less in duration. A program subject
29 to this paragraph may permit children to be enrolled in consecutive
30 sessions throughout the year. However, the program shall not
31 permit children to be enrolled in a combination of sessions that
32 total more than ~~12~~ 20 hours per week for each child.

33 (h) Extended day care programs operated by public or private
34 schools.

35 (i) Any school parenting program or adult education child care
36 program that satisfies both of the following:

37 (1) Is operated by a public school district or operated by an
38 individual or organization pursuant to a contract with a public
39 school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 2. Section 1596.792 of the Health and Safety Code, as amended by Section 5 of Chapter 519 of the Statutes of 2010, is amended to read:

1 1596.792. This chapter, Chapter 3.5 (commencing with Section
2 1596.90), and Chapter 3.6 (commencing with Section 1597.30)
3 do not apply to any of the following:

- 4 (a) Any health facility, as defined by Section 1250.
- 5 (b) Any clinic, as defined by Section 1202.
- 6 (c) Any community care facility, as defined by Section 1502.
- 7 (d) Any family day care home providing care for the children
8 of only one family in addition to the operator's own children.
- 9 (e) Any cooperative arrangement between parents for the care
10 of their children when no payment is involved and the arrangement
11 meets all of the following conditions:

12 (1) In a cooperative arrangement, parents shall combine their
13 efforts so that each parent, or set of parents, rotates as the
14 responsible caregiver with respect to all the children in the
15 cooperative.

16 (2) Any person caring for children shall be a parent, legal
17 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of
18 at least one of the children in the cooperative.

19 (3) There can be no payment of money or receipt of in-kind
20 income in exchange for the provision of care. This does not prohibit
21 in-kind contributions of snacks, games, toys, blankets for napping,
22 pillows, and other materials parents deem appropriate for their
23 children. It is not the intent of this paragraph to prohibit payment
24 for outside activities, the amount of which may not exceed the
25 actual cost of the activity.

26 (4) No more than 12 children are receiving care in the same
27 place at the same time.

28 (f) Any arrangement for the receiving and care of children by
29 a relative.

30 (g) Any public recreation program. "Public recreation program"
31 means a program operated by the state, city, county, special district,
32 school district, community college district, chartered city, or
33 chartered city and county that meets either of the following criteria:

34 (1) The program is operated only during hours other than normal
35 school hours for kindergarten and grades 1 to 12, inclusive, in the
36 public school district where the program is located, or operated
37 only during periods when students in kindergarten and grades 1
38 to 12, inclusive, are normally not in session in the public school
39 district where the program is located, for either of the following
40 periods:

1 (A) For under ~~16~~ 20 hours per week.

2 (B) For a total of ~~12~~ 14 weeks or less during a 12-month period.

3 This total applies to any ~~12~~ 14 weeks within any 12-month period,

4 without regard to whether the weeks are consecutive.

5 In determining “normal school hours” or periods when students
6 are “normally not in session,” the State Department of Social
7 Services shall, when appropriate, consider the normal school hours
8 or periods when students are normally not in session for students
9 attending a year-round school.

10 (2) The program is provided to children who are over the age
11 of four years and nine months and not yet enrolled in school and
12 the program is operated during either of the following periods:

13 (A) For under ~~16~~ 20 hours per week.

14 (B) For a total of ~~12~~ 14 weeks or less during a 12-month period.

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16 without regard to whether the weeks are consecutive.

17 (3) The program is provided to children under the age of four
18 years and nine months with sessions that run ~~12~~ 20 hours per week
19 or less and are ~~12~~ 14 weeks or less in duration. A program subject
20 to this paragraph may permit children to be enrolled in consecutive
21 sessions throughout the year. However, the program shall not
22 permit children to be enrolled in a combination of sessions that
23 total more than ~~12~~ 20 hours per week for each child.

24 (h) Extended day care programs operated by public or private
25 schools.

26 (i) Any school parenting program or adult education child care
27 program that satisfies both of the following:

28 (1) Is operated by a public school district or operated by an
29 individual or organization pursuant to a contract with a public
30 school district.

31 (2) Is not operated by an organization specified in Section
32 1596.793.

33 (j) Any child day care program that operates only one day per
34 week for no more than four hours on that one day.

35 (k) Any child day care program that offers temporary child care
36 services to parents and that satisfies both of the following:

37 (1) The services are only provided to parents and guardians who
38 are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) This section shall become operative on January 1, 2014.

~~SECTION 1. Section 8203 of the Education Code is amended to read:~~

~~8203. The Superintendent shall develop standards for the implementation of quality programs. Indicators of quality shall include, but not be limited to:~~

~~(a) A physical environment that is safe and appropriate for the ages of the children served, and that meets applicable licensing standards.~~

~~(b) Program activities and services that are age appropriate and meet the developmental needs of each child.~~

~~(c) Program activities and services that meet the cultural and linguistic needs of children and families.~~

~~(d) Family and community involvement.~~

~~(e) Parent education.~~

~~(f) Efficient and effective local program administration.~~

~~(g) Staff that possesses the appropriate and required qualifications or experience, or both. The appropriate staff~~

- 1 ~~qualifications shall reflect the diverse linguistic and cultural~~
2 ~~makeup of the children and families in the child care and~~
3 ~~development program. The use of intergenerational staff shall be~~
4 ~~encouraged.~~
5 ~~(h) Program activities and services that meet the needs of~~
6 ~~children with exceptional needs and their families.~~
7 ~~(i) Support services for children, families, and providers of care.~~
8 ~~(j) Resource and referral services.~~
9 ~~(k) Alternative payment services.~~
10 ~~(l) Provision for nutritional needs of children.~~
11 ~~(m) Social services that include, but are not limited to,~~
12 ~~identification of child and family needs and referral to appropriate~~
13 ~~agencies.~~
14 ~~(n) Health services that include referral of children to appropriate~~
15 ~~agencies for services.~~